IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)

Description of Case.

Writ Petition No. 414 of 2003 (M/B)

Date of decision: 23rd May, 2006

A.F.R. (Approved for Reporting)

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~~Not Approved for Reporting~~

Dated: 23.05.2006

Initials of Judge

Note: Bench Reader will attach this at the top of first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 414 of 2003 (M/B)

Doughles Vuges S/o Sri S.T. Vuges,
R/o Mussoorie Modern School, Mussoorie,
Principal, Mussoorie Modern School,
Mussoorie. …. Petitioner

Versus

1. Navneet Mittal S/o Late Sri Hari Mohan Mittal,
   R/o 84 Bhopa Road, South, New Mandi,
   Muzaffarnagar (U.P.)
2. Additional Chief Judicial Magistrate Ist,
   Muzaffarnagar (U.P.)
3. State of U.P.,
   Through S.S.P.
   Muzaffarnagar (U.P.). …. Respondents

Mr. A. Rab, Advocate for the petitioner.
None for respondents Nos. 1 and 2.
Ms. Beena Pandey, Standing Counsel (U.P. Govt.) for respondent No. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. A. Rab, Advocate for the petitioner.

None for respondents Nos. 1 and 2.

Ms. Beena Pandey, Standing Counsel (U.P. Govt.) for respondent No. 3.

They are heard.

2. The petitioner has filed this petition under Article 226 of the Constitution of India read with Section 482 Cr. P.C. for the following reliefs:

> "(i) Writ, order in the nature of certiorari quashing the complaint no. 730/9-2000 (Navneet Mittal Vs. Doughles Vuges) and summoning order passed on 09.07.2001, pending in the court of respondent no. 2 at Muzaffarnagar (U.P).

(ii) Writ, order or direction in the nature of prohibitory mandamus directing and commanding the respondent no. 2 not to try/ proceed with the complaint case No. 730/9-2000, U/s 406, 420 I.P.C. or in alternative the respondent no.2 be directed to sent the record to the learned Court of Chief Judicial Magistrate, Dehradun situated in the State of Uttaranchal.

(iii) Issue any writ, rule, order or direction, as this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iv) To award the cost to the petitioner."

3. The impugned order dated 09.07.2001 summoning the petitioner as an accused in the criminal complaint filed by the first respondent was passed by Additional Chief Judicial Magistrate 1st, Muzaffarnagar, U.P.

4. The Apex Court, in the case of **Musaraf Hossain Khan Vs. Bhagheeratha Engg. Ltd. and others** reported in **2006 AIR SCW 1137** while considering the territorial jurisdiction of the High Courts in entertaining petitions seeking quashing of the criminal proceedings, observed in para 29:

"29. We have referred to the scope of jurisdiction under Article 226 and 227 of the Constitution only to highlight that the High Courts should not ordinarily interfere with an order taking cognizance passed by a competent court of law except in a proper case. Furthermore only such High Court within whose jurisdiction the order of subordinate court has been passed would have the jurisdiction to entertain an application under Article 227 of the Constitution of India unless it is established that the earlier cause of action arose within the jurisdiction thereof."

5. The petitioner's main submission is that the Court at Muzaffarnagar (U.P.) had no jurisdiction to entertain the criminal complaint filed by the first respondent, as even according to the facts narrated in the criminal complaint, the act constituting the alleged offence were committed at Mussoorie, District Dehradun, State of Uttaranchal and as such, the criminal court at Muzaffarnagar (U.P.)

had no jurisdiction to entertain the complaint filed by first respondent against the petitioner.

6. Without going into the merits of the above submission of the learned counsel for the petitioner in regard to the territorial jurisdiction of the criminal court at Muzaffarnagar to entertain the complaint filed by first respondent against the petitioner, we are of the opinion that in view of the above-quoted para 29 of Musaraf Hossain Khan's case, the High Court of Uttaranchal has no jurisdiction to entertain the petition filed by the petitioner under Article 226 of the Constitution of India read with Section 482 of the Cr. P.C. against the impugned order passed by the Additional Chief Judicial Magistrate Ist, Muzaffarnagar, U.P.

7. The petitioner, however, shall be at liberty to file an appropriate petition before the High Court of Allahabad for the quashing of the impugned order, as the criminal court at Muzaffarnagar, which has passed the impugned order, is situated within the territorial jurisdiction of High Court of Allahabad.

8. As this Court vide order dated 16.05.2003 stayed the execution of the non- bailable warrant against the petitioner, we deem it proper to direct that the said protection granted to the petitioner vide order dated 16.05.2003 shall continue for a further period of one month from today.

9. With the above observation, the petition stands disposed of.

(Prafulla C. Pant, J) **(Rajeev Gupta, C.J.)**
23.05.2006 **23.05.2006**

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